IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 22403 of 2004

Between:

State of Andhra Pradesh, Rep. by its Commercial Tax Officer,
Alcot Gardens Circle, Rajahmundry, E.G. District.

..... PETITIONER

AND

M/s.Delta Tubes Private Limited, Rajanagaram (in liquidation) represented by Official Liquidator, High Court of Andhra Pradesh, Kendriya Sadan, Koti, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Official Liquidator in not disposing the claim petition and releasing the amount due to the Petitioner is illegal, arbitrary and without jurisdiction and contrary to Section 16(C) of the APGST Act and consequently declare that the Sales Tax will have the first charge over the properties of the defaulting the dealer in the light of Section 16(C) of the APGST Act and Section 17 of the CST Act and further direct the Official Liquidator to remit the Sales Tax arrears of the Respondent company to the Petitioner from the sale proceeds of the properties of the Respondent company forthwith.

Counsel for the Petitioner:MR.K.RAJI REDDY (SPL.SC FOR CT)

Counsel for the Respondent: None appeared.

The Court made the following :

ORAL ORDER: (per Hon'ble Mr.Justice M.H.S.Ansari)

Having heard the learned counsel for the respective parties, we are of the view that the petitioner has not been able to satisfy us on the question as to why petitioner has not applied to the Company Court for the reliefs as claimed in the instant writ application. Accordingly we are not inclined to entertain the instant writ petition. It is dismissed with liberty, however, to the petitioner to avail such remedy as may be open to it under the Companies Act, 1956. However, we clarify that we have not gone into the merits of the contentions raised and all questions are accordingly left open. No order as to costs.

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M.H.S.ANSARI, J

7-12-2004

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T.CH.SURYA RAO, J

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